

**JUDGE McMAHON**

**08 CV 4197**

JOHN ERIC OLSON (JO#4394)  
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New York, NY 10006

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
THE CONTINENTAL INSURANCE  
COMPANY

Plaintiff,

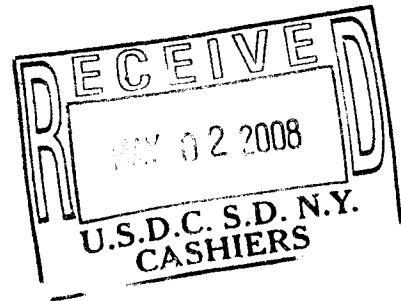
Docket No.

- Against -

Complaint

NORTHWEST AIRLINES, INC. and  
AMERICAN AIRLINES, INC.,

Defendants.  
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The Plaintiff, The Continental Insurance Company, (hereinafter "Continental Insurance") through its attorneys, Hill Rivkins & Hayden LLP, complaining of the above-named defendants, alleges upon information and belief:

**FIRST:** This Court has jurisdiction pursuant to 49 U.S.C. § 40105, in that these were international air carriages of cargoes departing from the United States, and arriving in Japan, which is subject to the Convention for the Unification of Certain Rules Relating to International Transportation by Air, 49 Stat. 3000, T.S. 876 (1934) commonly known as "The Warsaw Convention".

**SECOND:** At and during all times hereinafter mentioned, Plaintiff, Continental Insurance, was and now is a corporation or other business entity organized and existing by virtue

of the laws of one of the States of the United States, with an office and place of business at 40 Wall Street, New York, New York 10005, and is the subrogated cargo underwriter who paid the claims to Takata Inflation Systems Inc.

**THIRD:** At and during all times hereinafter mentioned, Defendant, Northwest Airlines, Inc., was and now is a corporation or other business entity organized and existing by virtue of the laws of one of the States of the United States with an office and place of business at 125 Park Avenue, New York, New York 10017 and was and now is a common carrier, warehouseman and/or bailee.

**FOURTH:** At and during all times hereinafter mentioned, Defendant, American Airlines, Inc., was and now is a corporation or other business entity organized and existing by virtue of the laws of one of the States of the United States with an office and place of business at 150 E. 42<sup>nd</sup> Street, New York, New York and was and now is a common carrier, warehouseman and/or bailee.

**AS AND FOR A FIRST CAUSE OF ACTION**  
**ACTION AGAINST NORTHWEST AIRLINES, INC.**

**FIFTH:** On or about May 4, 2006, there was delivered to the defendant in good order and condition a shipment of airbag inflators, suitable in every respect for the intended transportation which defendant received, accepted and agreed to transport and/or store for certain consideration, under HAWB MTY30010982 dated May 4, 2006 consigned to Takata Kyushu Corporation.

**SIXTH:** Thereafter, the defendant, Northwest Airlines, Inc. failed to deliver the shipment in the same good order and condition.

**SEVENTH:** Plaintiff's subrogee was the shipper, consignee or owner of said shipment, and Plaintiff is the subrogated underwriter who insured the cargo and brings this action on its own behalf and, as agent and trustee, on behalf of and for the interest of all parties who may be or become interested in the said shipment, as their respective interests may ultimately appear, and plaintiff is entitled to maintain this action.

**EIGHTH:** By reason of the premises, the defendant was negligent and careless in its handling of Plaintiff's subrogee's cargo, violated its duties and obligations as a common carrier and bailee of the cargo, and was otherwise at fault.

**NINTH:** Plaintiff and Plaintiff's subrogee have duly performed all duties and obligations on their part to be performed.

**TENTH:** By reason of the premises, Plaintiff has sustained damages as nearly as same can now be estimated, no part of which has been paid, although duly demanded, in the total amount of \$17,000.00.

**AS AND FOR A SECOND CAUSE OF ACTION**  
**ACTION AGAINST NORTHWEST AIRLINES, INC.**

**ELEVENTH:** Plaintiff repeats and realleges each and every allegation contained in Paragraphs First through Tenth as if the same were fully set forth herein at length.

**TWELFTH:** On or about May 3, 2006, there was delivered to the defendant in good order and condition a shipment of airbag inflators, suitable in every respect for the intended transportation which defendant received, accepted and agreed to transport and/or store for certain consideration, under HAWB MTY30010979 dated May 4, 2006 consigned to Takata Kyushu Corporation.

**THIRTEENTH:** Thereafter, the defendant, Northwest Airlines, Inc. failed to deliver the shipment in the same good order and condition.

**FOURTEENTH:** Plaintiff's subrogee was the shipper, consignee or owner of said shipment, and Plaintiff is the subrogated underwriter who insured the cargo and brings this action on its own behalf and, as agent and trustee, on behalf of and for the interest of all parties who may be or become interested in the said shipment, as their respective interests may ultimately appear, and plaintiff is entitled to maintain this action.

**FIFTEENTH:** By reason of the premises, the defendant was negligent and careless in its handling of Plaintiff's subrogee's cargo, violated its duties and obligations as a common carrier and bailee of the cargo, and was otherwise at fault.

**SIXTEENTH:** Plaintiff and Plaintiff's subrogee have duly performed all duties and obligations on their part to be performed.

**SEVENTEENTH:** By reason of the premises, Plaintiff has sustained damages as nearly as same can now be estimated, no part of which has been paid, although duly demanded, in the total amount of \$5,000.00.

**AS AND FOR A THIRD CAUSE OF ACTION**  
**ACTION AGAINST AMERICAN AIRLINES, INC.**

**EIGHTEENTH:** Plaintiff repeats and realleges each and every allegation contained in Paragraphs First through Seventeenth as if the same were fully set forth herein at length.

**NINETEENTH:** On or about July 7, 2006, there was delivered to the defendant in good order and condition a shipment of airbag inflators, suitable in every respect for the intended transportation which defendant received, accepted and agreed to transport and/or store for certain

consideration, under AWB KWE330810396421 dated July 7, 2006 consigned to Takata Kyushu Corporation.

**TWENTIETH:** Thereafter, the defendant, American Airlines, Inc. failed to deliver the shipment in the same good order and condition.

**TWENTY-FIRST:** Plaintiff's subrogee was the shipper, consignee or owner of said shipment, and Plaintiff is the subrogated underwriter who insured the cargo and brings this action on its own behalf and, as agent and trustee, on behalf of and for the interest of all parties who may be or become interested in the said shipment, as their respective interests may ultimately appear, and plaintiff is entitled to maintain this action.

**TWENTY-SECOND:** By reason of the premises, the defendant was negligent and careless in its handling of Plaintiff's subrogee's cargo, violated its duties and obligations as a common carrier and bailee of the cargo, and was otherwise at fault.

**TWENTY-THIRD:** Plaintiff and Plaintiff's subrogee have duly performed all duties and obligations on their part to be performed.

**TWENTY-FOURTH:** By reason of the premises, Plaintiff has sustained damages as nearly as same can now be estimated, no part of which has been paid, although duly demanded, in the total amount of \$3,200.00.

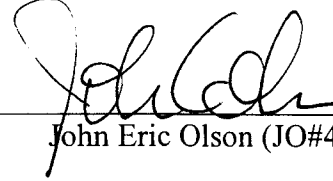
**W H E R E F O R E,** Plaintiff prays:

1. That a decree may be entered in favor of Plaintiff against Defendants for the amount of Plaintiff's damages, together with interest and costs.
2. Plaintiff further prays for such other, further and different relief as to this Court may deem just and proper in the premises.

Dated: New York, New York  
May 2, 2008

HILL RIVKINS & HAYDEN LLP  
Attorneys for Plaintiff

By: \_\_\_\_\_



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